

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

The State of Texas, et al.,

Plaintiffs,

v.

Google LLC,

Defendant.

Case No. 4:20-cv-00957-SDJ

Hon. Sean D. Jordan

PLAINTIFF STATES' *MOTIONS IN LIMINE*

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Before the *voir dire* examination of the jury panel, Plaintiff States make this motion *in limine*. Plaintiffs seek to exclude matters that are inadmissible, irrelevant, or unduly prejudicial to the material issues in this case. If Google injects these matters in this case through a party, an attorney, or a witness, it will cause irreparable harm to Plaintiffs' case that no jury instruction would cure. In an effort to avoid prejudice and a possible mistrial, and to avoid unnecessary trial interruptions, Plaintiffs ask the Court to prohibit Google, and its counsel and witnesses, from offering evidence or argument regarding any of the following matters without first asking for a ruling from the Court, outside the jury's presence, on the admissibility of the matter:

1. Amount or Magnitude of Civil Penalties Sought by Plaintiffs

Google, and its counsel and witnesses, should not be permitted to reference or offer any evidence, testimony, or argument regarding the amount or magnitude of civil penalties sought by Plaintiffs or how Plaintiffs may use or not use any penalties awarded. This *motion in limine* does not include evidence, testimony, argument, or references regarding any other facts and expert opinions that may relate to civil penalties. Such evidence is irrelevant and unfairly prejudicial, and is likely to confuse the issues, mislead the jury, and be a waste of time. Fed. R. Evid. ("FRE") 401–402 (irrelevant); FRE 403 (unfairly prejudicial, confuses the issues, likely to mislead jury, waste of time); *see also, e.g.*, Dkt. No. 854 at 137–40 (striking the States' jury demands for the "quantum of civil penalties owed, if any, for Google's alleged state-antitrust and DTPA claims"); *Pa. State Univ. v. Vintage Brand, LLC*, 755 F. Supp. 3d 563, 577–78 (M.D. Pa. 2024); *Hampden Auto Body Co. v. Owners Ins.*, No. 17-cv-1894-WJM-SKC, 2020 WL 6511956, at *6–7 (D. Colo. Nov. 5, 2020); *Toy v. Am. Fam. Mut. Ins.*, No. 12-cv-01683-PAB-MJW, 2014 WL 486173, at *1 (D. Colo. Feb. 6, 2014).

2. Obligation and/or Failure of Plaintiffs To Possess Expert or Technical Knowledge

Google, and its counsel and witnesses, should not be permitted to reference or offer any evidence, testimony, or argument regarding any obligation and/or failure of Plaintiff States' Attorneys General, or any employee thereof or any employee of a Plaintiff State, to possess expert, technical, or other specialized knowledge of the Plaintiffs' claims, including regarding the alleged harm or injuries. Such evidence is irrelevant and unfairly prejudicial, and is likely to confuse the issues, mislead the jury, and be a waste of time. FRE 401–402 (irrelevant); FRE 403 (unfairly prejudicial, confuses the issues, likely to mislead jury, waste of time); *see also, e.g., Koppel v. 4987 Corp.*, 191 F.R.D. 360, 367 (S.D.N.Y. 2000); *Robbins v. Moore Med. Corp.*, No. 91 CIV. 3701(MEL), 1992 WL 396423, at *2 (S.D.N.Y. Dec. 21, 1992).

3. The Parties' Attorneys' Fee Arrangements or Litigation Expenses

Google, and its counsel and witnesses, should not be permitted to reference or offer any evidence, testimony, or argument regarding the parties' attorneys' fee arrangements (including amounts or structure of any compensation) or how litigation expenses are paid, or how much those expenses are, in connection with this or any similar litigation. Such evidence is irrelevant and unfairly prejudicial, and is likely to confuse the issues, mislead the jury, and be a waste of time. FRE 401–402 (irrelevant); FRE 403 (unfairly prejudicial, confuses the issues, likely to mislead jury, waste of time); *see also, e.g., ContentGuard Holdings, Inc. v. Amazon.com, Inc.*, No. 2:13-CV-01112-JRG, 2015 WL 12915561, at *2 (E.D. Tex. Aug. 3, 2015); *CloudfChange, LLC v. NCR Corp.*, No. 6:19-CV-00513-ADA, 2021 WL 11714765, at *2 (W.D. Tex. Nov. 8, 2021); *In re DePuy Orthopaedics, Inc. Pinnacle Hip Implant Prods. Liab. Litig.*, No. 3:11-MD-2244-K, 2017 WL 9807464, at *3 (N.D. Tex. Sept. 19, 2017); *In re Yasmin & Yaz (Drospirenone) Mktg., Sales Pracs. & PMF Prods. Liab. Litig.*, No. 3:09-md-10012-DRH, 2011 WL 6740391, at *16 (S.D. Ill. Dec. 22, 2011).

4. The Parties' Selection of Their Attorneys

Google, and its counsel and witnesses, should not be permitted to reference or offer any evidence, testimony, or argument regarding how, when, or under what circumstances the parties selected or hired their attorneys, or to any referral arrangements or other counsel the parties may have retained or consulted beyond their current counsel. Such evidence is irrelevant and unfairly prejudicial, and is likely to confuse the issues, mislead the jury, and be a waste of time. FRE 401–402 (irrelevant); FRE 403 (unfairly prejudicial, confuses the issues, likely to mislead jury, waste of time); *see also, e.g., In re DePuy*, 2017 WL 9807464, at *3; *In re Xarelto (Rivaroxaban) Prods. Liab. Litig.*, No. MDL 2592, 2017 WL 11718344, at *1, *7 (E.D. La. Apr. 18, 2017); *In re 3M Combat Arms Earplug Prods. Liab. Litig.*, No. 3:19md2885, 2021 WL 918214, at *9–10 (N.D. Fla. Mar. 10, 2021); *In re Tylenol (Acetaminophen) Mktg., Sales Pracs. & Prods. Liab. Litig.*, MDL No. 2436, 2016 WL 3125428, at *5–6, *17 (E.D. Pa. June 3, 2016); *In re Yasmin & Yaz*, 2011 WL 6740391, at *16.

5. Counsel's Other Current or Former Clients

Google, and its counsel and witnesses, should not be permitted to reference or offer any evidence regarding any counsel's other current or former (a) clients (by name or by type) or how they obtained them or may obtain future clients, (b) legal and other work, (c) specialization or practice experience, or (d) financial status or resources. This includes counsel's law firms and staff members. Such evidence is irrelevant and unfairly prejudicial, and is likely to confuse the issues, mislead the jury, and be a waste of time. FRE 401–402 (irrelevant); FRE 403 (unfairly prejudicial, confuses the issues, likely to mislead jury, waste of time); *see also, e.g., Virtru Corp. v. Microsoft Corp.*, No. 6:22-CV-00242-ADA, 2023 WL 11898407, at *1 (W.D. Tex. Apr. 26, 2023); *In re DePuy*, 2017 WL 9807464, at *2–3; *In re Vioxx Prods. Liab. Litig.*, MDL No. 1657, 2005 WL 3164251, at *1 (E.D. La. Nov. 18, 2005); *In re Tylenol*, 2016 WL 3125428, at *6.

6. The Parties' Use of Jury Consultants or Mock Juries or Related Trial Resources

Google, and its counsel and witnesses, should not be permitted to reference or offer any evidence regarding the parties' or counsels' use of jury consultants or mock juries or related trial resources. Such evidence is irrelevant and unfairly prejudicial, and is likely to confuse the issues, mislead the jury, and be a waste of time. FRE 401–402 (irrelevant); FRE 403 (unfairly prejudicial, confuses the issues, likely to mislead jury, waste of time); *see also, e.g., Virtru Corp.*, 2023 WL 11898407, at *1; *CloudofChange*, 2021 WL 11714765, at *3; *In re DePuy*, 2017 WL 9807464, at *3; *In re FEMA Trailer Formaldehyde Prods. Liab. Litig.*, MDL No. 07-1873, 2009 WL 2914384, at *1 (E.D. La. Sept. 3, 2009); *Allstate Ins. v. Nassiri*, No. 2:08-CV-369 JCM (GWF), 2013 WL 2394116 (D. Nev. May 30, 2013).

7. Accommodations or Use of Private Aircraft

Google, and its counsel and witnesses, should not be permitted to reference or offer any evidence regarding the accommodations or the use of private aircraft for transportation by any witnesses, parties, or counsel. Such evidence is irrelevant, unfairly prejudicial, and exceeds the scope of permissible cross-examination, and is likely to confuse the issues, mislead the jury, and be a waste of time. FRE 401–402 (irrelevant); FRE 403 (unfairly prejudicial, confuses the issues, likely to mislead jury, waste of time); FRE 611(b) (exceeds scope of permissible cross-examination); *see also, e.g., In re DePuy*, 2017 WL 9807464, at *3; *Wells v. BNSF Ry. Co.*, No. CV-21-97-GF-BMM, 2023 WL 8434778, at *7 (D. Mont. Aug. 18, 2023); *In re Tylenol*, 2016 WL 3125428, at *6; *Ruth v. A.O. Smith Corp.*, 1:04-CV-18912, 2006 WL 530388, at *6 (N.D. Ohio Feb. 27, 2006); *In re Yasmin & Yaz*, 2011 WL 6740391, at *16.

8. Unchallenged Character or Traits of Any Party's Current or Former Employees

Google, and its counsel and witnesses, should not be permitted to reference or offer any evidence, testimony, or argument that preemptively bolsters the unchallenged character (e.g.,

honest) or traits (e.g., generous) of any party's current or former employees, managers, consultants, witnesses, experts, agents, or fiduciaries (e.g., "Do you know Mr. X?" "Yes, he is a good person of impeccable integrity."). Such evidence is irrelevant and unfairly prejudicial, and is likely to confuse the issues, mislead the jury, and be a waste of time. It is also inadmissible character evidence. FRE 401–402 (irrelevant); FRE 403 (unfairly prejudicial, confuses the issues, likely to mislead jury, waste of time); FRE 404(a)(1) (inadmissible character evidence); FRE 608(a) ("evidence of truthful character is admissible only after the witness's character for truthfulness has been attacked"); *see also, e.g., In re Xarelto*, 2017 WL 11718344, at *2; *In re Actos (Pioglitazone) Prods. Liab. Litig.*, 6:11-md-2299, 2013 WL 5603823, at *1 (W.D. La. Oct. 10, 2013); *In re 3M Combat Arms Earplug*, 2021 WL 918214, at *6; *Tylenol*, 2016 WL 3125428, at *8; *Sadler v. Adv. Bionics, LLC*, No. 3:11-CV-00450-TBR, 2013 WL 1385386, at *2 (W.D. Ky. Apr. 3, 2013).

9. Unrelated Philanthropy or Good Deeds or Acts Carried Out by the Parties

Google, and its counsel and witnesses, should not be permitted to reference or offer any evidence, testimony, or argument regarding philanthropy or good deeds or acts carried out by the parties or their employees unrelated to ad tech products or services (e.g., references to community service, social responsibility activities, charity work, or charitable donations or giving made by Google or any of its employees, statements that Google is a "good corporate citizen," etc.), including the potential effects of an adverse judgment on such activities and including any Google "privacy" initiative, program, policy, or product feature unless it relates directly to the design, function, or marketing of the ad tech products and services at issue in this action and is relevant to a claim or defense. Such evidence is irrelevant and unfairly prejudicial, and is likely to confuse the issues, mislead the jury, and be a waste of time. It is also inadmissible character and propensity evidence. FRE 401–402 (irrelevant); FRE 403 (unfairly prejudicial, confuses the issues, likely to

mislead jury, waste of time); FRE 404(a)-(b) (inadmissible character and propensity evidence).¹ See also, e.g., *In re Xarelto*, 2017 WL 11718344, at *1, *3; *In re Vioxx*, 2005 WL 3164251, at *1; *In re Tylenol*, 2016 WL 3125428, at *8, *11; *Sadler*, 2013 WL 1385386, at *2; *In re Yasmin & Yaz*, 2011 WL 6740391, at *16; *Bartlett v. Mut. Pharm. Co.*, No. 08-cv-358-JL, 2010 WL 3156555, at *4 (D.N.H. July 26, 2010).

10. Use of Any Deposition Video or Associated Technology that Alters the Original

Google, and its counsel and witnesses, should not be permitted to use any deposition video or associated technology that alters the appearance of what was displayed at the deposition, including but not limited to, the use of “highlighting,” enlarging, or otherwise emphasizing documents or portions of documents, unless the emphasis was done during the deposition and is part of the deposition video record. This *motion in limine* does not preclude showing a document discussed by a deponent, without alteration. Such evidence is irrelevant and unfairly prejudicial, and is likely to confuse the issues, mislead the jury, and be a waste of time. It also constitutes unfair and misleading tactics in presenting evidence and testimony, FRE 401–402 (irrelevant); FRE 403 (unfairly prejudicial, confuses the issues, likely to mislead jury, waste of time); FRE 611(a) (unfair/misleading tactics in presenting evidence and testimony).

Numerous depositions in this case have been videotaped with the expectation that the witness will appear via videotaped deposition rather than being brought live to testify. Plaintiffs’ counsel has enlarged, highlighted, and emphasized documents with witnesses during the deposition, who then have the opportunity to react to and testify according to counsel’s emphasis.

¹ While Rule 404(b) is most commonly utilized to exclude “bad acts,” it also applies to “good acts,” in what is commonly referred to as a “reverse 404(b).” *United States v. Hayes*, 219 Fed. App’x 114, 116 (3d Cir. 2007) (unpublished); see also *Ansell v. Green Acres Contracting Co.*, 347 F.3d 515, 520 (3d Cir. 2003).

Defense counsel has been afforded the fair opportunity to examine witnesses in response. If Google elected not to highlight or emphasize documents and evidence during the deposition, it should not be permitted to effectively modify the deposition at trial from how it was contemporaneously taken. Otherwise, witness testimony and documents will be unfairly emphasized without prior notice to the witness or counsel, depriving Plaintiffs of the ability to fairly re-cross or re-direct the witness. The Court has the broad discretion to limit counsel from using misleading and unfair tactics in presenting evidence and testimony. FRE 611(a); *see also, e.g., In re DePuy*, 2017 WL 9807464, at *4; *Wells*, 2023 WL 8434778, at *8.

11. Unrelated Legal or Employment Matters of a Party’s Expert or the Expert’s Family

Google, and its counsel and witnesses, should not be permitted to reference or offer any evidence, testimony, or argument regarding unrelated legal or employment matters of a party’s expert or the expert’s family, such as divorce proceedings, employment or other disputes, and any other matters not related to their general background, expertise, and qualifications. Such evidence is irrelevant, unfairly prejudicial, and exceeds the scope of permissible cross-examination, and is likely to confuse the issues, mislead the jury, and be a waste of time. FRE 401–402 (irrelevant); FRE 403 (unfairly prejudicial, confuses the issues, likely to mislead jury, waste of time); FRE 611(b) (exceeds scope of permissible cross-examination); *see also, e.g., Jones v. S. Pac. R.R.*, 962 F.2d 447, 450 (5th Cir. 1992) (“There is no right to impeach a witness with respect to collateral or irrelevant matters”); *In re DePuy*, 2017 WL 9807464, at *4; *Grizzle v. Gen. Growth Props., Inc.*, CIV-10-388-C, 2011 WL 7268176, at *3 (W.D. Okla. Oct. 12, 2011).

12. The Parties’ Motions *in Limine* or Other Such Motions To Exclude Evidence

Google, and its counsel and witnesses, should not be permitted to reference or offer any evidence, testimony, or argument regarding the filing of the parties’ motions *in limine*, the contents thereof, or other such motions to exclude evidence and their contents and any agreements or

proceedings in connection with this motion or reference to any such matter. Such evidence is irrelevant and unfairly prejudicial, and is likely to confuse the issues, mislead the jury, and be a waste of time. FRE 401–402 (irrelevant); FRE 403 (unfairly prejudicial, confuses the issues, likely to mislead jury, waste of time); *see also, e.g., ContentGuard*, 2015 WL 12915561, at *2; *Virtru Corp.*, 2023 WL 11898407, at *1; *CloudfogChange*, 2021 WL 11714765, at *2–3; *In re FEMA Trailer*, 2009 WL 2914384, at *1; *Kirksey v. Schindler Elevator Corp.*, No. 15-0115-WS-N, 2016 WL 7116223, at *18 (S.D. Ala. Dec. 6, 2016).

13. Settlement Demands, Offers, or Negotiations Between Any Plaintiffs and Google

Google, and its counsel and witnesses, should not be permitted to reference or offer any evidence, testimony, or argument regarding any settlement demands, offers, or negotiations between any Plaintiffs and Google. Such evidence is irrelevant and unfairly prejudicial, and is likely to confuse the issues, mislead the jury, and be a waste of time. It is also inadmissible settlement evidence. FRE 401–402 (irrelevant); FRE 403 (unfairly prejudicial, confuses the issues, likely to mislead jury, waste of time); FRE 408(a) (inadmissible settlement evidence); *see also, e.g., Droplets, Inc. v. Overstock.com, Inc.*, No. 2:11-CV-401-JRG-RSP, 2014 WL 11515642, at *2 (E.D. Tex. Dec. 10, 2014); *Stephenson v. State Farm Mut. Auto. Ins.*, No. 2:09CV51-SA-SAA, 2010 WL 2605343, at *1–2 (N.D. Miss. June 24, 2010).

14. Refusal of a Party to Enter into a Stipulation Prior to or During Trial

Google, and its counsel and witnesses, should not be permitted to reference or offer any evidence, testimony, or argument regarding the refusal of a party to enter into a stipulation prior to or during trial or any request in the presence of the jury for a new stipulation or revision to an existing stipulation. Such evidence is irrelevant and unfairly prejudicial, and is likely to confuse the issues, mislead the jury, and be a waste of time. FRE 401–402 (irrelevant); FRE 403 (unfairly

prejudicial, confuses the issues, likely to mislead jury, waste of time); *see also, e.g., In re FEMA Trailer*, 2009 WL 2914384, at *1; *Kirksey*, 2016 WL 7116223, at *18–19.

15. Religious or Political Views, Race, or Sexual Orientation or Identity of Any Witnesses

Google, and its counsel and witnesses, should not be permitted to reference or offer any evidence, testimony, or argument regarding the religious or political views, race, or sexual orientation or identity of any witnesses in an attempt to attack or support the witness’s credibility. Such evidence is irrelevant and unfairly prejudicial, and is likely to confuse the issues, mislead the jury, and be a waste of time. It is also inadmissible evidence of a witness’s religious beliefs. FRE 401–402 (irrelevant); FRE 403 (unfairly prejudicial, confuses the issues, likely to mislead jury, waste of time); FRE 610 (inadmissible evidence of witness’s religious beliefs); *see also, e.g., ContentGuard*, 2015 WL 12915561, at *2; *Virtru Corp.*, 2023 WL 11898407, at *1.

16. Matters for Which the Producing Party Has Withheld Some or All Related Discovery

Google, and its counsel and witnesses, should not be permitted to reference or offer any evidence regarding matters for which the producing party has withheld some or all related discovery, with no limitation on the non-producing party. Such evidence is unfairly prejudicial and is inadmissible unless the failure to disclose was substantially justified or harmless. Fed. R. Civ. P. 37(c)(1) (prohibits party that fails to provide information, or supplement previously disclosed information, in accordance with its discovery obligations from using that information at trial unless the failure was substantially justified or is harmless); FRE 403 (unfairly prejudicial); *see also, e.g., In re FEMA Trailer*, 2009 WL 2914384, at *1; *Sadler*, 2013 WL 1385386, at *1; *Ross v. Am. Red Cross*, No. 2:09-cv-00905-GLF, 2012 WL 2004810, at *7–8, *11 (S.D. Ohio June 5, 2012); *Monsanto Co. v. Bayer Bioscience N.V.*, No. 4:00CV01915 ERW, 2005 WL 5989796, at *8, *14, *19 (E.D. Mo. Oct. 28, 2005).

17. Suggestion or Indication of Potential Adverse Effects from a Judgment for Plaintiffs

Google, and its counsel and witnesses, should not be permitted to reference or offer any evidence regarding any suggestion or indication that a judgment for Plaintiffs and against Google in this case could have any potential adverse effects, including, but not limited to, any potential adverse effects with respect to: consumers, advertisers, publishers, or the ad tech industry generally; ad tech providers' incentive or ability to develop new ad tech products or services; the availability, quality, or cost (e.g., raise prices) of ad tech products or services; the ability to access the internet; the economy; or Google's finances, stock values, employees, or ability to compete in the marketplace. Such evidence is irrelevant and unfairly prejudicial, and is likely to confuse the issues, mislead the jury, and be a waste of time. FRE 401–402 (irrelevant); FRE 403 (unfairly prejudicial, confuses the issues, likely to mislead jury, waste of time); *see also, e.g., ContentGuard*, 2015 WL 12915561, at *2; *Droplets*, 2014 WL 11515642, at *1–2; *Virtru Corp.*, 2023 WL 11898407, at *1; *In re Xarelto*, 2017 WL 11718344, at *3; *In re Actos*, 2013 WL 5603823, at *1; *In re Vioxx*, 2005 WL 3164251, at *1; *Wells*, 2023 WL 8434778, at *8; *In re 3M Combat Arms Earplug*, 2021 WL 918214, at *6–7; *In re Tylenol*, 2016 WL 3125428, at *5–6, *8; *Sadler*, 2013 WL 1385386, at *3; *In re Yasmin & Yaz*, 2011 WL 6740391, at *16.

18. Pretrial Proceedings or Issues Including but Not Limited to Discovery Requests

Google, and its counsel and witnesses, should not be permitted to reference or offer any evidence, testimony, or argument regarding pretrial proceedings or issues including but not limited to discovery disputes (with the exception of Google's spoliation of Google Chats), dispositive motion practice, or dropped claims or defenses. This *motion in limine* does not include evidence, testimony, or argument regarding the absence of evidence produced by a party, even if related to pre-trial discovery. Such evidence is irrelevant and unfairly prejudicial, and is likely to confuse the issues, mislead the jury, and be a waste of time. FRE 401–402 (irrelevant); FRE 403 (unfairly

prejudicial, confuses the issues, likely to mislead jury, waste of time); *see also, e.g., Virtru Corp.*, 2023 WL 11898407, at *1; *Dinsay v. RN Staff Inc.*, No. 1:19-cv-00907-TWP-DML, 2021 WL 2643639, at *4 (S.D. Ind. June 28, 2021); *Barry v. Medtronic, Inc.*, No. 1:14-CV-104, 2016 WL 11677569, at *1 (E.D. Tex. Oct. 28, 2016); *Intell. Ventures II LLC v. FedEx Corp.*, No. 2:16-CV-00890-JRG, 2018 WL 10638138, at *5 (E.D. Tex. Apr. 26, 2018).

19. Equitable Defenses or Counterclaims

Google, and its counsel and witnesses, should not be permitted to reference or offer any evidence, testimony, or argument before the jury that relates only to equitable defenses or counterclaims (i.e., evidence that does not also serve another evidentiary purpose relevant to jury issues). Such evidence is irrelevant and unfairly prejudicial, and is likely to confuse the issues, mislead the jury, and be a waste of time. FRE 401–402 (irrelevant); FRE 403 (unfairly prejudicial, confuses the issues, likely to mislead jury, waste of time); *see also, e.g., Virtru Corp.*, 2023 WL 11898407, at *1; *Realtime Data, LLC v. Actian Corp.*, No. 6:15-CV-463 RWS-JDL, 2017 WL 11662045, at *2 (E.D. Tex. May 4, 2017); *Metaswitch Networks, Ltd. v. Genband US LLC*, No. 2:14-cv-744-JRG-RSP, 2016 WL 3618831, at *2 (E.D. Tex. Mar. 1, 2016).

20. Size of the Parties’ Counsel’s Law Firms or the Number of Attorneys

Google, and its counsel and witnesses, should not be permitted to reference or offer any evidence, testimony, or argument regarding the size of the parties’ counsel’s law firms or the number of attorneys representing the parties. Such evidence is irrelevant and unfairly prejudicial, and is likely to confuse the issues, mislead the jury, and be a waste of time. FRE 401–402 (irrelevant); FRE 403 (unfairly prejudicial, confuses the issues, likely to mislead jury, waste of time); *see also, e.g., Virtru Corp.*, 2023 WL 11898407, at *1; *Nassiri*, 2013 WL 2394116, at *3.

21. Suggestion that the Eastern District of Texas is an Improper or Inconvenient Venue

Google, and its counsel and witnesses, should not be permitted to reference or offer any evidence, testimony, or argument suggesting that the Eastern District of Texas is an improper or inconvenient venue in which to try this case. Such evidence is irrelevant and unfairly prejudicial, and is likely to confuse the issues, mislead the jury, and be a waste of time. FRE 401–402 (irrelevant); FRE 403 (unfairly prejudicial, confuses the issues, likely to mislead jury, waste of time); *see also, e.g., CloudfChange*, 2021 WL 11714765, at *1; *Virtru Corp.*, 2023 WL 11898407, at *1; *Droplets*, 2014 WL 11515642, at *1.

22. Questions or Statements Made to Invoke a Privileged or Protected Answer

Google, and its counsel and witnesses, should not be permitted to ask questions or make any statements to invoke a privileged or protected answer, including any materials that are privileged or that have been presented outside of the jury to establish/prevent a finding of privilege. Such evidence is irrelevant and unfairly prejudicial, and is likely to confuse the issues, mislead the jury, and be a waste of time. It is also privileged. FRE 401–402 (irrelevant); FRE 403 (unfairly prejudicial, confuses the issues, likely to mislead jury, waste of time); FRE 501, 502 (recognizing privilege and waiver limitations); *see also, e.g., Virtru Corp.*, 2023 WL 11898407 at *1; *Hale v. State Farm Mut. Auto. Ins.*, No. 12-0660-DRH, 2018 WL 4052413, at *15–16 (S.D. Ill. Aug. 21, 2018).

23. Expert Witness Testimony Outside the Parameters of That Expert’s Report

Google, and its counsel and witnesses, should not be permitted to reference or offer any evidence regarding expert witness testimony that is outside the established parameters of that expert’s expert report, and counsel shall not raise such an objection for strategic or other non-meritorious purposes. Such evidence is irrelevant and unfairly prejudicial, and is likely to confuse the issues, mislead the jury, and be a waste of time. It is also inadmissible expert testimony. FRE

401–402 (irrelevant); FRE 403 (unfairly prejudicial, confuses the issues, likely to mislead jury, waste of time); Fed. R. Civ. P. 26(a)(2) (expert disclosure requirements); *see also, e.g., Virtru Corp.*, 2023 WL 11898407, at *1; *Sadler*, 2013 WL 1385386, at *1.

24. Presence or Absence of Any Party’s Representative, Employee, or Other Witness

Neither party shall be permitted to reference or offer any evidence regarding the presence or absence of any party’s corporate representative, employee, or other witness, including the absence of any state agencies of any of the Plaintiff States. Such evidence is irrelevant and unfairly prejudicial, and is likely to confuse the issues, mislead the jury, and be a waste of time. FRE 401–402 (irrelevant); FRE 403 (unfairly prejudicial, confuses the issues, likely to mislead jury, waste of time); *see also, e.g., In re Xarelto*, 2017 WL 11718344, at *8; *Dear v. Crown Castle S., LLC*, 2016 WL 11668654, at *1 (S.D. Miss. June 16, 2016).

25. Suggestion That the Opposing Party Failed to Call Any Witness

Google, and its counsel and witnesses, should not be permitted to reference or offer any evidence, testimony, or argument suggesting that the opposing party failed to call any witness, including state or state agency witnesses and witnesses from third parties such as advertisers, ad agencies, publishers, or ad tech companies, either individually or by category. The parties shall also be precluded from making any mention or statement of probable testimony of a witness who is absent, unavailable, or will not be called or allowed to testify live or by deposition in this case. In short, neither party shall “try the empty chair.” Such evidence is irrelevant and unfairly prejudicial, and is likely to confuse the issues, mislead the jury, and be a waste of time. FRE 401–402 (irrelevant); FRE 403 (unfairly prejudicial, confuses the issues, likely to mislead jury, waste of time); *see also, e.g., In re FEMA Trailer*, 2009 WL 2914384, at *1; *Brown v. Carr*, C.A. No. C-04-471, 2008 WL 167313 at *2–3 (S.D. Tex. Jan. 16, 2008).

26. Names of Plaintiffs’ Attorneys General and Employees Outside of This Case

Google, and its counsel and witnesses, should not be permitted to reference or offer any evidence, testimony, or argument regarding any of the Plaintiff States’ Attorneys General, or any employee thereof, by name or by reference to any activity, political or personal characteristics, or other legal proceeding outside of this case in which the Attorney General or employee is or has been engaged, including use of digital advertising in their personal capacities, unless (a) such names or matters are disclosed in deposition testimony or exhibits introduced into evidence at trial; or (b) Plaintiffs raise those subjects at trial. Such evidence is irrelevant and unfairly prejudicial, and is likely to confuse the issues, mislead the jury, and be a waste of time. It is also inadmissible character and propensity evidence. FRE 401–402 (irrelevant); FRE 403 (unfairly prejudicial, confuses the issues, likely to mislead jury, waste of time); FRE 404(a)–(b) (inadmissible character and propensity evidence); *see also, e.g., Koch v. Koch Indus., Inc.*, 2 F. Supp. 2d 1385, 1388 (D. Kan. Mar. 20, 1998); *Virtru Corp.*, 2023 WL 11898407, at *1; *United States v. Higgins*, 526 F. Supp. 3d 311, 318 (S.D. Ohio 2021).

27. Reference to Implied Political Motivations or Views of Plaintiff States

Google, and its counsel and witnesses, should not be permitted to reference or offer any evidence, testimony, or argument regarding any of the Plaintiff States as “red” or “blue,” “conservative” or “liberal,” “right-wing” or “left-wing,” or in any other manner that may be reasonably construed as an attempt to portray this action as politically-motivated or reflective of a particular political view, ambition, or agenda. Such evidence is irrelevant and unfairly prejudicial, and is likely to confuse the issues, mislead the jury, and be a waste of time. FRE 401–402 (irrelevant); FRE 403 (unfairly prejudicial, confuses the issues, likely to mislead jury, waste of time); *see also, e.g., Koch*, 2 F. Supp. 2d at 1388; *Virtru Corp.*, 2023 WL 11898407, at *1.

28. States Other Than Plaintiffs Not Joining This Action or Asserting DTPA Claims

Google, and its counsel and witnesses, should not be permitted to reference or offer any evidence, testimony, or argument regarding states other than Plaintiffs not joining this action or asserting deceptive or unfair trade practice claims against Google elsewhere. Such evidence is irrelevant and unfairly prejudicial, and is likely to confuse the issues, mislead the jury, and be a waste of time. FRE 401–402 (irrelevant); FRE 403 (unfairly prejudicial, confuses the issues, likely to mislead jury, waste of time); *see also, e.g., Barry*, 2016 WL 11677569, at *1.

29. Potential Effects of an Adverse Judgment on Google’s Business in the Plaintiff States

Google, and its counsel and witnesses, should not be permitted to reference or offer any evidence, testimony, or argument regarding the potential effects of an adverse judgment on Google’s investments, facilities, offices, customers, and/or employees in the Plaintiff States. Such evidence is irrelevant and unfairly prejudicial, and is likely to confuse the issues, mislead the jury, and be a waste of time. FRE 401–402 (irrelevant); FRE 403 (unfairly prejudicial, confuses the issues, likely to mislead jury, waste of time); *see also, e.g., Hale*, 2018 WL 4052413, at *5–6.

30. Plaintiffs’ Claims Being “Unprecedented,” “Radical,” “Outrageous,” or the Like

Google, and its counsel and witnesses, should not be permitted to reference or offer any evidence, testimony, or argument regarding Plaintiffs’ claims and requests for relief against Google being “unprecedented,” “radical,” “outrageous,” or otherwise beyond the scope of legally-recognized claims and remedies. Such evidence is irrelevant and unfairly prejudicial, and is likely to confuse the issues, mislead the jury, and be a waste of time. FRE 401–402 (irrelevant); FRE 403 (unfairly prejudicial, confuses the issues, likely to mislead jury, waste of time); *see also, e.g., In re Vioxx*, 2005 WL 3164251, at *1; *Grant v. CRST Expedited, Inc.*, No. 1:18-CV-433, 2021 WL 2101741, at *3 (E.D. Tex. Apr. 7, 2021).

DATED: July 8, 2025

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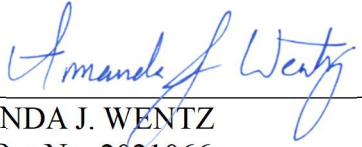
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CERTIFICATE OF SERVICE

I certify that, on July 8, 2025, this document was filed electronically in compliance with Local Rule CV-5(a) and served on all counsel who have consented to electronic service, per Local Rule CV-5(a)(3)(A).

/s/ Ashley Keller
Ashley Keller

CERTIFICATE OF CONFERENCE

I certify that, pursuant to the Parties' agreement and subject to the Court's scheduling order (which requires counsel to confer after the filing of responses to *motions in limine*), counsel has complied with the meet and confer requirement in Local Rule CV-7(h). Counsel for Plaintiff States exchanged their *Motions in Limine* with counsel for Google on June 30, 2025 and will further confer with Google.

/s/ Ashley Keller
Ashley Keller